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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Letter dated 8 April 1998 from the Special Rapporteur on the situation of human rights in Bosnia and Herzegovina, Croatia and Yugoslavia addressed to the Chairman of the Commission on Human Rights*

Following upon the request of the Commission, as expressed in the Chairman's Statement of 24 March 1998, I have travelled to the Federal Republic of Yugoslavia. During the period 5-8 April, I visited Belgrade and Pristina, where I met with authorities of the federal Government and the Republic of Serbia, representatives of the Kosovo Albanians, leadership of international organizations, and many others. I was received by all whom I visited in a spirit of cooperation.

The findings of my visit are set forth in the letter annexed hereto.* Within the next weeks, I shall return to the countries of my mandate for an extensive visit and shall submit those findings in a report to the Commission.

(signed) Jiri DIENSTBIER
Special Rapporteur

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* The attachment is circulated as received in the language of submission only.

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Annex

Visit of the Special Rapporteur of the Commission on Human Rights,
Mr. Jiri Dienstbier,
to the Federal Republic of Yugoslavia, 5-8 April 1998

Introduction

On the request of the Commission on Human Rights, as expressed in the Chairman's Statement of 24 March 1998, the United Nations Special Rapporteur for Bosnia and Herzegovina, the Republic of Croatia, and the Federal Republic of Yugoslavia made a fact-finding visit to the Federal Republic of Yugoslavia from 5-8 April 1998. The Special Rapporteur travelled to Belgrade and Pristina and met with federal and Serbian officials and Kosovo Albanian leaders. The present report focuses on human rights concerns related to the operations carried out by the Serbian Ministry of Internal Affairs in the region of Drenica and in Decani municipality during late February and March 1998. It is based on information gathered during the visit of the Special Rapporteur and on fieldwork by staff of the Office of the High Commissioner for Human Rights (OHCHR), who have since 5 March been reporting directly from Kosovo and who accompanied the Special Rapporteur on his fact-finding visit.

A. Background to the actions of February and March 1998

The recent events in Kosovo, particularly in the Drenica region, which includes the municipalities of Srbica, Klina and Glogovac in central Kosovo, and in Decani municipality in the west, should be viewed in the context of more than two years of escalating political radicalization and violence in Kosovo. Violations of human rights by the authorities in the Federal Republic of Yugoslavia, including Kosovo, have been documented in the regular reports of Special Rapporteurs of the Commission on Human Rights during the past several years. These have included arbitrary arrest and detention, political trials, violations of due-process protections, torture and physical abuse of detainees by police and security officials. Since early 1996, the region has seen an increasing number of armed attacks aimed largely against Serbian police targets, in which at least 40 persons have lost their lives. A previously unknown organization calling itself the "Kosovo Liberation Army" ("Ushtrine Clirimtare e Kosoves," or "UCK") has claimed responsibility for most of these acts. In the last year there have also been a growing number of attacks against Kosovo Albanian civilians, whom the "UCK" has depicted as collaborators with Serbian authorities. On 10 March 1998, the Yugoslav Ministry of Foreign Affairs issued an aide-memoire, "Terrorist acts by Albanian separatists in Kosovo and Metohija in 1996, 1997 and the first two months of 1998," which describes some 200 attacks against police and civilians in that time period. The Serbian Ministry of Interior has indicated that it has additional information on attacks on police and civilians.

Before the events of February-March 1998, the Drenica region in particular had for months been the scene of violence. According to the Ministry of Internal Affairs, police operations were launched during that time in response to armed attacks carried out by "UCK"

groups said to be based in the area. On 26 November 1997, heavily armed Serbian police units supported by armoured vehicles and helicopters surrounded a number of villages near Srbica, reportedly to apprehend a group of armed individuals suspected of having attacked the police a few days earlier. The siege culminated in an exchange of fire, which lasted several hours, around the village of Donji Prekaz. Several police officers and one Kosovo Albanian man were wounded. A simultaneous police action in the nearby village of Lausa resulted in the death of one Kosovo Albanian man and several injuries. Since November 1997, Serbian police reportedly have patrolled in the Drenica area only in daylight and many post offices and other state institutions have been closed. It appears that significant police reinforcements were brought into the area during that time.

In response to attacks by the "UCK," the Serbian police have over the last year launched a series of raids in different areas of Kosovo, including the Drenica region, in which houses and sometimes entire villages have been searched for weapons and large numbers of people arrested and questioned. There have been many reports of severe ill treatment and torture in connection with these police actions.

It should be noted that it was not until the separate but simultaneous street protests held in mid-March 1998 by Albanians and Serbs in Pristina and elsewhere in Kosovo that any actual clashes among civilians were recorded.

B. Concerns pertaining to the right to life

1. Likosani and Cirez

On 28 February 1998, Serbian police engaged in an armed operation in the villages of Likosani and Cirez (Qires), near Glogovac in the Drenica region. It is unclear what event may have immediately precipitated this action. According to the Serbian Ministry of Internal Affairs, earlier the same day police units on regular patrol had come under attack from "Albanian separatists," and four police officers were killed and two others seriously wounded. It was also reported that a collective centre in Srbica, housing Croatian Serb refugees, had been fired at by unknown assailants the previous day. There were no casualties, and the police intervened some ten minutes after the shooting began, but a subsequent exchange of gunfire reportedly lasted a few hours. The police may have responded to this incident the following morning with the operation in Likosani and Cirez. According to official sources, 16 persons were killed by the police in the operation, and nine others arrested. It now appears that four detainees have since been released, but the identities of the five still in detention have not been disclosed. Following the operation, the Ministry of Internal Affairs announced that it had seized large quantities of weapons and explosives in Likosani and Cirez.

Other sources report that at around 11:30 on the morning of 28 February, heavily armed police forces supported by armoured vehicles and helicopters converged on Likosani, surrounding and opening fire on the compound of the Ahmeti family. Police entered the property by forcing the gate open with an armored personnel carrier (APC), and then ordered all persons out. According to one eyewitness, the police then told all present to lie on the ground and started beating and kicking the men. Some of the men were apparently beaten

unconscious. Twelve men, including 10 members of the Ahmeti family and two others, were then taken out of sight of the others present. Shortly afterwards shots and screams were heard. After the men had been taken away, remaining women and children were confined to a room, while police guarded the house and remained until the following day. After they left, the families went out into the yard, and reportedly found large bloodstains, teeth and other human remains close to the wall encircling the Ahmeti compound. An eyewitness said that she was hiding with children and two men in a house close to the Ahmeti compound when the police started shooting through the windows and the door. Both men reportedly were killed in the shooting.

While the operation in Likosani was ongoing, police units also moved against the neighbouring village of Cirez, launching an assault with APCs and helicopters and targeting several houses in particular. Eyewitnesses allege that police officers entered one house and fired weapons indiscriminately at the people inside. At least two persons were reportedly shot at close range, including a pregnant woman. In another house four brothers were allegedly taken out by police and shot in the yard. According to testimonies, at least ten persons (in addition to the 12 killed at the Ahmeti compound) were killed by the police in yards and roads in Likosani and Cirez on 28 February 1998.

The bodies of 15 persons were later located at the Pristina morgue by relatives. Witnesses who saw the corpses claim that some of the bodies showed signs of mutilation and that some of the dead appeared to have been shot at close range. On 3 March, 25 coffins were buried in Likosani. In addition to the 15 bodies found at the morgue, ten had been recovered in the villages. OHCHR is in possession of a number of photographs taken of the bodies at an undetermined time. Although they permit no definitive conclusions, the photographs indicate that gunshots had been fired at very close range. OHCHR staff inspected some houses in both Likosani and Cirez and observed traces of the alleged shootings. Although several buildings displayed apparent bullet holes, the damage was not extensive and did not seem to indicate that any intense exchange of fire had taken place.

2. Prekaz

A second police operation took place in Kosovo on 5 March when police who, according to the Ministry of Internal Affairs, had come under fire pursued their attackers and laid siege to a number of family compounds in the villages of Gornji Prekaz and Donji Prekaz, the scene of the November 1997 violence. According to a police statement, two officers were killed and four wounded in the exchange. The statement went on to say that 26 "terrorists" were "liquidated", among them their leader, Mr. Adem Jashari. Another 30 persons reportedly surrendered, but the statement did not specify their fate or whereabouts.

OHCHR staff interviewed eyewitnesses to the events of 5 March in Prekaz, but many persons were reluctant to speak about their experiences, indicating that they were afraid for their safety. Many of the witnesses are close relatives of persons killed in Prekaz, and this may influence their testimonies. According to the accounts received, the police operation in Prekaz started early in the morning of 5 March. Tanks, machine guns and grenade launchers were used against the Jashari compound. One eyewitness said there had been shooting

coming from the Jashari compound when the police started to enter. The same witness also described shooting by police of unarmed civilians, including women and children, while they were trying to escape from the scene. Other witnesses -- women and children from Donji Prekaz -- reported escaping, then being detained and finally released by the police. None of the witnesses attested to police at any time giving an order to surrender. It may be noted that while many women and children fled the area in the early stages of the operation, some reports suggest that some families in Prekaz had refused to evacuate the compounds that came under fire from the police.

Forty-eight bodies of persons allegedly killed at Gornji and Donji Prekaz were brought from the Pristina morgue to the police station in Srbica on 8 March. Local sources reported that the bodies of five other people killed at about the same time in the village of Lausa and in locations close to Srbica, allegedly by snipers, were later brought to Srbica. It appears that 15 women and eight children under the age of 16 were among the dead. Four of the dead were over 65 years of age. On 10 March, Serbian authorities acknowledged publicly that women and children were among the dead, but stated that they had been killed in crossfire. The families of the deceased refused to collect the bodies for burial, demanding that an international team of forensic experts be allowed to perform independent autopsies. The relatives claimed that some of the bodies bore marks suggesting that the persons had been shot at close range. However, on 10 March the police buried the bodies in graves close to Donji Prekaz. The bodies were later exhumed and reburied by relatives.

OHCHR staff visited Donji Prekaz on 14 March and observed four houses affected by the police action, including the Jashari compound. The buildings were badly damaged and in some instances completely destroyed; some of the neighbouring houses appeared largely intact. On 29 March OHCHR staff again visited Donji Prekaz, which remained deserted except for patrolling police units.

3. Other incidents

On 24 March, violence flared again in Kosovo near the Albanian border. Serbian authorities reported that an operation was carried out in Glodjani and Dubrava in response to an attack on police in which one officer was killed and another wounded. Three persons were killed and another twenty wounded during the police action, which continued throughout the day. In addition, according to local non-governmental sources, one house was burned and another fifteen were damaged by weapons fire.

During the period from 9 March-1 April, several other incidents were reported in which groups of persons were fired upon or beaten. On 9 March a protest against the police operations was organized in Istok municipality, west of the Drenica region, at which local sources report that police shot at protesters, wounding several people. According to eyewitness testimonies received by OHCHR staff, the police had ordered the protesters to disperse and then started shooting, first in the air and then towards a group of protesters who were running. Twelve persons were reportedly wounded, mainly in their legs. In Pec on 18 March, one man was shot dead, reportedly on his way to a protest, and five others were wounded in demonstrations.

4. Comments and observations

Many of the testimonies described above suggest that extra-judicial executions of detained persons and indiscriminate shooting of unarmed civilians may have been committed by the police as they carried out the operations in the mentioned villages. If confirmed, the acts would constitute serious violations of international human rights and humanitarian law. The allegations must be thoroughly and systematically investigated, and persons found to be responsible for such acts should be brought to justice.

In its initial statement on casualties resulting from the police actions, the Serbian Ministry of Internal Affairs announced that the bodies would be subject to *post mortem* examinations by forensic experts at the Pristina state hospital. However, it appears that no autopsies were carried out before burial of those killed in Likosani, Cirez and Prekaz. Of the 53 bodies buried in Prekaz, ten were buried without having been identified. Under domestic law, the authorities are obliged to carry out detailed *post mortem* examinations *ex officio* in all cases of violent death, under the authority of the investigating judge handling the case. The law also provides for the exhumation of bodies in the event that they have already been buried, and further obliges the authorities to take adequate measures to identify the dead in connection with autopsies.

The United Nations High Commissioner for Refugees (UNHCR) has expressed its concern over the security situation of refugees, mostly Serbs from the Republic of Croatia, who are accommodated in collective centres in Drenica. While it appears that most of the refugees have left the collective centre in Glogovac, the majority of those in Srbica have remained. UNHCR has appealed to the Serbian Commissioner for Refugees to find alternative accommodation for these people.

C. Missing and Detained Persons

OHCHR has received reports from various sources indicating that, in connection with the Prekaz operation, members of some families are missing. The reports have been imprecise and difficult to verify in the current charged atmosphere. The violence in Drenica led thousands of people to flee their homes in the region. As a result, it is not clear whether persons initially reported as missing were simply separated from their families in the ensuing chaos, whether they were or are detained, or whether they may have been killed during the fighting and their bodies not recovered.

According to information received from a local NGO as well as an eyewitness, eight persons were trapped in the cellar of a house in which they allegedly took shelter during the attack on Donji Prekaz and are now presumed dead. According to the witness, he and an elderly man had been hiding with these persons in the cellar. When the house started to burn, he and the older man left the cellar. The older man was killed by an explosion outside the cellar, while the witness himself was injured, receiving minor burns on his feet and head. The names of the eight appear on a list, compiled by a local NGO, of thirteen persons considered as "missing" from Prekaz.

D. Torture

OHCHR has received confirmation of several cases outside the Drenica area in which persons suspected of crimes against the state, including terrorist activities, were arrested and detained by the police and state security services. Four of five Kosovo Albanian men who were arrested in Prizren on 27 February are still in custody. It is alleged that they were subjected to torture, including electric shock, during interrogation before their formal arraignment while they were in police custody, and after their formal arraignment while in the custody of the court. Subsequent to the release of one of the original detainees, another man was arrested. OHCHR has received information that at least one of the detainees is continuing to undergo torture while under the jurisdiction of the court. On 11 March, OHCHR inquired about the Prizren allegations in correspondence with the federal and republic ministries of interior and justice, and the allegations were further discussed directly with the Serbian Ministry of Justice on 18 March. On 30 March, OHCHR requested a meeting with the district prosecutor of Prizren and a visit to the detainees, but as of 9 April no response had been received.

Fourteen persons are alleged to have been arrested in connection with the police action of 24 March in and around the village of Glodjani. All were reportedly freed within a few days except for one man who remains in custody on charges related to "anti-state activities." It has been alleged that he has been tortured while in detention. A representative of a local NGO who visited some of those released reported that they said they were badly beaten while in custody.

It will be recalled that the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Yugoslavia, provides for a prompt and impartial investigation when there are reasonable grounds to believe that an act of torture has been committed. The Special Rapporteur is not aware of any such investigations being carried out by the authorities into these continuing allegations of torture.

Recommendations and concluding remarks

The human rights situation in Kosovo is grave. Several steps, some of which have been mentioned in this report, could contribute substantially toward its improvement, or toward clarifying recent allegations of human rights violations. They include the following:

- The authorities should permit a forensic investigation, by independent experts including relevant U.N. authorities, of the deaths resulting from the 28 February operations in Likosani and Cirez and the 5 March operations in Prekaz. Such an investigation should have as its objective to determine whether arbitrary, summary or extra-judicial executions occurred in the course of those operations.

- The Serbian Ministry of Internal Affairs should conduct an internal investigation of the events of 28 February and 5 March, and publicly announce its findings. If sufficient evidence is found to warrant further proceedings, it should be affirmed that officers would be subject not only to internal disciplinary measures, but also to investigatory

procedures applicable to all citizens. Criminal charges, as warranted, should be brought by the state prosecutor and cases brought swiftly to trial, which should be held in regular, open session.

- International standards of human rights should be scrupulously respected for persons in detention. Arrested persons should be allowed to contact their families and to receive legal assistance. They should further be provided access, whether they are in police or court custody, to their own physicians, and not only physicians provided by the police or court. Allegations of torture should be rigorously investigated and acts of torture punished.

- Police should treat the allowable periods of detention after arrest, as specified by domestic law, as maximum limits, not standard detention periods. It has been alleged in some cases that the routine confinement of detainees for the full period permitted by law has been the cause of reports that persons have gone "missing." Domestic law allows police to hold an individual up to 24 hours to determine identity, and then an additional 72 hours before arraignment before an investigative judge.

- The Kosovo Albanian leadership should make a public commitment to ensure that all members of the Kosovo Albanian community shall pursue their goals only by peaceful means, and that they shall respect and protect the human rights of all inhabitants of the region.

- All parties should allow free access for international and humanitarian organizations to persons and areas in Kosovo affected by violence.

- The Government should authorize the opening of an OHCHR office in Kosovo. Such a presence would help substantially to promote confidence, as it did during the two-week period from 26 March-9 April when an expanded OHCHR team was active in the region.

- The Government should authorize the establishment of a temporary, expanded OHCHR human rights monitoring mission in the region, operating out of premises in Kosovo, which by its presence could help to promote confidence during the difficult months which lie immediately ahead.

The crisis in Kosovo has been building over time and is based, in large measure, on unresolved political questions. The emergence of certain radical elements has fueled a cycle of violence and retaliation. A growing pattern of intimidation is being aimed at those considered to be willing to negotiate the political status of Kosovo. Terms such as "traitorous," "loyal" and "collaborationist" appear with increasing frequency in political discourse, fueling the polarization of communities. Both parties must be convinced to commence a genuine dialogue immediately, because only the open exchange of views can serve to lessen the ongoing tension.

As of this writing, the level of violence that marked the past few weeks in Kosovo has subsided, but it has not altogether disappeared. Progress in resolving the crisis has been minimal. During the visit of the Special Rapporteur, the bodies of six Kosovo Albanian men, kidnapped

a few days before, were discovered in a field outside Prizren. The six, who had business ties to Serb-owned firms, were allegedly kidnapped by Albanian-speaking masked men. Both Serbian and Albanian media continue to report sniper attacks. Agreement has recently been reached on preliminary implementation of the Memorandum of Understanding on Education, but some members of both the Serb and the Kosovo Albanian communities have protested bitterly against its terms.

In the current atmosphere, emphasis has rightly been placed on the quick elaboration of a political solution to defuse the crisis. A solution to the grave human rights situation, however, may require a reliance on the "long view," with perspectives both on history and on the future. The inhabitants of Kosovo have been able, and should continue to be able, to live together in peace. There should be a framework for securing and protecting, in a sustained way, the human rights of all persons affected by the situation in Kosovo.